

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Jonathan M. Arnold, #320526,

Plaintiff,

vs.

Lieber Officials,

Defendants.

C/A No. 9:09-1536-JFA-BM

Report and Recommendation

This is a civil action filed by a state prisoner.¹ The case is before the court based upon the plaintiff's response to this court's proper form Order filed on June 15, 2009. (Docket Entry # 5) On June 23, 2009, this court received the plaintiff's response wherein he indicated his desire to bring this case on a future date when he is ready. (Docket Entry # 7, docketed as a motion for extension of time) The plaintiff explained that his letter that was filed as a Complaint was intended as a request for a § 1983 package and forms. Accordingly, this court construes the plaintiff's June 23, 2009, motion as a request for a voluntary dismissal of this case without prejudice.

Recommendation

It is recommended that the plaintiff's motion for a voluntary dismissal of this action be granted pursuant to Federal Rule of Civil Procedure 41(a)(2), and that this case be dismissed *without prejudice* so that the plaintiff may file the case on a future date. **The plaintiff's attention is directed to the important notice on the next page.**

June 25, 2009
Charleston, South Carolina

Bristow Marchant
United States Magistrate Judge

¹ The plaintiff mailed a letter to the Clerk of Court, and it was determined that a civil action number should be assigned and a case opened. The letter was filed as a Complaint.

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Court Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005).

Specific written objections must be filed within ten (10) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The time calculation of this ten-day period excludes weekends and holidays and provides for an additional three (3) days for filing by mail. Fed. R. Civ. P. 6(a) & (e). Filing by mail pursuant to Fed. R. Civ. P. 5 may be accomplished by mailing objections to:

Larry W. Propes, Clerk
United States District Court
P. O. Box 835
Charleston, South Carolina 29402

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985).